



Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

NUMBER: 561.04.193

CONVERSION DATE: July 1, 1998

RECEIPT OF GOODS THROUGH AN AGENT

Issued April 30, 1993

This ETB does not indicate a change in the Department's position, but is a clarification. This ETB will be applied for the time period beginning with January 1, 1992, the effective date of WAC 458-20-193.

Washington does not assert B&O tax on sales of goods which originate outside this state unless the goods are received by the purchaser in this state and the seller has nexus. WAC 458-20-193 (Rule 193) states that delivery of the goods to a freight consolidator, freight forwarder, or for-hire carrier is not receipt of the goods by the purchaser or its agent unless the consolidator, freight forwarder, or for-hire carrier has express written authority to accept or reject the goods for the purchaser with the right of inspection.

What constitutes receipt at an out-of-state location where the for-hire carrier is given express written authority to accept the goods for the buyer at an out-of-state location?

For receipt to occur at the out-of-state location, the for-hire carrier must take those actions that would generally be taken by a prudent buyer to assure that the goods conform to the purchase order or contract. This generally requires at a minimum that the goods be physically examined by the receiving agent. The agent must also have access to the purchase order or contract in order to determine if the goods conform. The mere giving to the for-hire carrier of a written authority to accept the goods at an out-of-state location, without some further act of acceptance, will not be considered as receipt by the purchaser or the purchaser's agent at that location. In short, the carrier must not only have written authority to accept or reject goods for the buyer, it must actually do so and provide documentation of that fact to the seller.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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If the goods are given by the seller to a for-hire carrier in sealed containers and the containers are not opened by the purchaser until arrival in Washington, it will be presumed that receipt did not occur until the goods arrived in Washington, irrespective of any express written authority granted to the carrier. An agent acting for a buyer for receipt of goods must in some manner substantiate that the goods conform to the buyer's specifications.

The department will not accept a mere stamped or other "form-over-substance" shipping document as satisfying the requirement that the goods have been accepted by the buyer's agent outside this state. This ETB expresses the intent of Rule 193 from its inception.